

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GENCO IMPORTING INC. d/b/a MANITOBA'S  
and RICHARD MANITOBA,

Plaintiffs,

- against -

CITY OF NEW YORK, EMILY LLOYD, in her  
capacity as Commissioner of the New York City  
Department of Environmental Protection and as  
Chairman of the New York City Environmental  
Control Board, NEW YORK CITY DEPARTMENT  
OF ENVIRONMENTAL PROTECTION, NEW  
YORK CITY ENVIRONMENTAL CONTROL  
BOARD,

Defendants.

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**NOTICE OF MOTION  
TO DISMISS**

07 Civ. 3560 (LAK)

(ECF Case)

**PLEASE TAKE NOTICE** that upon the annexed Declaration of Ave Maria Brennan, dated August 29, 2007 and Defendants' Memorandum of Law in Support of their Motion to Dismiss, dated August 29, 2007, and upon the amended complaint and all prior proceedings herein, the undersigned will move this Court before the Honorable Lewis A. Kaplan at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York New York, as soon as counsel can be heard, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the amended complaint together with such other and further relief as the Court deems just, fair and equitable.

**PLEASE TAKE FURTHER NOTICE**, that in accordance with S.D.N.Y. Civil Rule 6.1(b), opposition papers must be served on the undersigned within ten (10) days after service of this motion. Failure to do so will result in this motion being granted as unopposed.

Dated: New York, New York  
August 29, 2007

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